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No. 08-266

Supreme Court, U.S.
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In The

Supreme Court of the United States

MAHABIR NANAN, *et ux.*,

Petitioners,

v.

STATE FARM FIRE AND CASUALTY COMPANY,

Respondent.

On Petition For Writ Of Certiorari To The Georgia Court Of Appeals

BRIEF FOR RESPONDENT STATE FARM

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QUESTIONS PRESENTED

There are no questions properly before this Court.

RULE 29.6 STATEMENT

State Farm Fire and Casualty Company is a wholly owned subsidiary of State Farm Mutual Auto Insurance Company.

OPINIONS AND ORDERS

The Georgia Court of Appeals decision is reported at *Nanan v. State Farm Fire and Casualty Co.*, 650 S.E.2d 283, 286 Ga. App. 539 (Ga. App. 2007). The Georgia Supreme Court's denial of Petitioners' writ of *certiorari* is unreported, but located at Pet. App. Appendix E. The Georgia Supreme Court's denial of reconsideration is also unreported.

Petitioners have raised these same issues in a previous petition before this Court in Docket No. 06-1693. This Court entered an unreported Order on October 1, 2007 denying that petition.

STATEMENT OF CASE

Petitioners' brief in support of their petition alleges sweeping facts that are scandalous, irrelevant, and prohibited by Supreme Court Rule 24(6). Petitioners' facts are therefore not worthy of response, and are entirely disputed. The relevant facts are set forth in the decision of the Georgia Court of Appeals at *Nanan v. State Farm Fire and Casualty Co.*, 650 S.E.2d 283, 286 Ga. App. 539 (Ga. App. 2007).

ARGUMENT

"A petition for a writ of *certiorari* will be granted only for compelling reasons." SUP CT. R. 10. Further, writs of *certiorari* are rarely granted where "the asserted error consists of erroneous factual findings." *Id.* This Court defers substantially to lower courts in the resolution of disputed factual issues that turn on credibility determinations observed only by trial courts. *Berenyi v. District Director, Immigration & Naturalization Service*, 385 U.S. 630, 636, 87 S.Ct. 666 (1967) ("this court possesses no empirical expertise to set aside the careful and reasonable conclusions of lower courts on purely factual issues"); *see also General Talking Pictures Corp. v. Western Electric Co.*, 304 U.S. 175, 178, 58 S.Ct. 849 (1938) ("granting of the writ would not be warranted merely to review the evidence or inferences drawn from it").

Petitioners have articulated 12 questions presented that purport to implicate various constitutional violations. However, the crux of Petitioners' writ is that their case against State Farm should not have been dismissed because of their refusal to comply with the court's discovery orders. The trial court, having heard the arguments of the parties and observed firsthand Petitioners' history of noncompliance with court orders, was in the best position to determine the appropriate sanctions. This Court should clearly see through Petitioners' attempt for review of purely factual matters. The Georgia Court of Appeals' well-informed decision found the trial court's actions justified, and the Georgia Supreme

Court declined to revisit the issue. This Court should therefore not hesitate to deny Petitioners' petition for writ of *certiorari*.

CONCLUSION

The petition, which seeks review of purely factual matters, does not offer compelling reasons for this Court to grant Petitioners' writ of *certiorari,* and should be denied.

Respectfully submitted,

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